

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

DOUGLAS J. DiBIASI,

No. CV-07-276-LRS

Plaintiff,

**ORDER AWARDING
STATUTORY DAMAGES,
ATTORNEY FEES AND
COSTS**

v.

STARBUCKS CORPORATION, et
al.,

Defendants.

Plaintiff's Petition For Writ Of Certiorari was denied by the United States Supreme Court on October 3, 2011. An award of statutory damages, attorney fees and costs was stayed pending resolution of the Petition. (ECF No. 272). It is therefore now appropriate for the court to make the award as directed by the Ninth Circuit Court of Appeals. (ECF No. 260). Having reviewed all of the materials submitted by the parties, the court awards damages, fees and costs as follows:

STATUTORY DAMAGES

Pursuant to RCW 4.24.510, Defendants Starbucks Corporation, Leslie Ruff and Heidi Parr are each awarded \$10,000 in damages from the Plaintiff.

**ORDER AWARDING STATUTORY
DAMAGES, ATTORNEY FEES AND COSTS- 1**

ATTORNEY FEES

Pursuant to RCW 4.24.510 and 42 U.S.C. §1988(b), Defendants Starbucks, Ruff and Parr are jointly awarded a total of \$156,797.62 in attorney fees from the Plaintiff.¹ The court agrees with the arguments advanced in Defendants' Reply In Support Of Second Declaration (ECF No. 271) and therefore, will not compel an itemization of specific fees and costs attributable to the assertion of the immunity defense under RCW 4.24.510.

The court used the hourly rates set forth in the Declaration of D. Roger Reed (ECF No. 269) filed by Defendants. These are prevailing market rates for Spokane attorneys for the years 2007-2009. The breakdown is as follows: 1) Mary Gaston, Esq.- \$2,092.50 for 2007 (9.3 x \$225); \$16,426.50 for 2008 (69.9 x \$235); 64,650.00 for 2009 (258.6 x \$250); 2) Hugh Handeyside, Esq.- \$41,118 for 2008 (293.7 x \$140); \$67,897.50 for 2009 (411.5 x \$165); 3) Michael Teter, Esq.- \$512.50 for 2007 (4.1 x \$125); \$938.00 for 2008 (6.7 x \$140); 4) Ashley Locke, Esq.- \$406.00 for 2008 (2.9 x \$140); \$478.50 for 2009 (2.9 x \$165); 5) Kathryn Reddy, Esq.- \$7,778.00 for 2009 (47.2 x \$165); and 6) Elaine Cherry- \$6,732.00 for 2009 (56.1 x \$120). The total is \$209,039.50, but this figure is reduced by 25% (\$52,259.88) in accord with the formula set forth in Paragraph 4 of the Declaration of Hugh Handeyside (ECF No. 264). The court finds reasonable the hours incurred by each attorney and paralegal.

COSTS

Pursuant to RCW 4.24.510 and 42 U.S.C. §1988(b), Defendants Starbucks, Ruff and Parr are jointly awarded a total of \$18,319.79 in reimbursable costs from

¹ The award to Defendants Starbucks and Ruff is pursuant to RCW 4.24.510 only. The award to Defendant Parr is pursuant to both RCW 4.24.510 and 42 U.S.C. §1988(b). (See ECF Nos. 246 and 260).

1 the Plaintiff (\$18,816.77 less \$496.98 in witness fees for Parr, Ruff, Dellwo,
2 Neiswender, and Sullivan, which Plaintiff claims, and Defendants do not dispute,
3 were paid by Plaintiff for these witnesses to testify in his case-in-chief).

4 **IT IS SO ORDERED.** The District Court Executive shall enter Judgment
5 for Defendants Starbucks, Ruff and Parr against Plaintiff in the amounts set forth
6 above and forward copies of the Judgment and this order to counsel of record.

7 **DATED** this 13th day of June, 2012.

8 *s/Lonny R. Suko*

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10 LONNY R. SUKO
11 United States District Judge
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**ORDER AWARDING STATUTORY
DAMAGES, ATTORNEY FEES AND COSTS- 3**